

**(b) Referral to Attorney General**

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or any order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to any person committing the violation.

**(c) Civil penalties and orders****(1) Civil penalties**

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense.

**(2) Cease and desist orders**

In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

**(3) Notice and hearing**

No order assessing a penalty or cease and desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to such violation.

**(4) Finality**

The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, in accordance with subsection (d) of this section.

**(d) Review by United States district court****(1) Commencement of action**

Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) of this section may obtain review of the penalty or order in the district court of the United States for the district in which such person resides or does business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(B) simultaneously sending a copy of such notice by certified mail to the Secretary.

**(2) Record**

The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

**(3) Standard of review**

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

**(e) Failure to obey orders**

Any person who fails to obey a cease and desist order issued by the Secretary after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than \$500 for each offense. Each day during which such failure continues shall be considered a separate violation of such order.

**(f) Failure to pay penalties**

If a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing such civil penalty shall not be subject to review.

(Pub. L. 101-624, title XIX, §1958, Nov. 28, 1990, 104 Stat. 3877; Pub. L. 102-237, title VIII, §805(2), Dec. 13, 1991, 105 Stat. 1882.)

## AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102-237 substituted “United States District Court” for “United States district court”.

**§ 6208. Investigations and power to subpoena****(a) In general**

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this chapter; or

(2) to determine whether a person subject to the provisions of this chapter has engaged or is engaging in any act that constitutes a violation of any provision of this chapter, or any order, rule, or regulation issued under this chapter.

**(b) Power to subpoena****(1) Investigations**

For the purpose of an investigation made under subsection (a) of this section, the Secretary may administer oaths and affirmations and may issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

**(2) Administrative hearings**

For the purpose of an administrative hearing held under section 6206 or 6207 of this title,

the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

**(c) Aid of courts**

In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

**(d) Contempt**

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

**(e) Process**

Process in any such case may be served in the judicial district of which such person resides or conducts business or wherever such person may be found.

**(f) Hearing site**

The site of any hearings held under section 6206 or 6207 of this title shall be within the judicial district where such person is an inhabitant or has a principal place of business.

(Pub. L. 101-624, title XIX, §1959, Nov. 28, 1990, 104 Stat. 3878; Pub. L. 102-237, title VIII, §805(3), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102-237 struck out “section” after “6206 or”.

**§ 6209. Initial referendum**

**(a) Requirement**

Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 6204(d) of this title, the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

- (1) are not exempt from assessment under section 6204(d)(5) of this title; and
- (2) produced or imported limes during a representative period as determined by the Secretary.

**(b) Purpose of referendum**

The referendum referred to in subsection (a) of this section is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

**(c) Confidentiality**

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 6210 of this

title, shall be held strictly confidential and shall not be disclosed.

**(d) Refund of assessments from escrow account**

**(1) In general**

A portion of the assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

**(2) Approval of order**

If the order is approved by a majority of the producers, producer-handlers, and importers voting in the initial referendum under subsection (a) of this section, the funds in the escrow account shall be released to be used for the purposes of this chapter.

**(3) Disapproval of order**

**(A) Proration**

If—

- (i) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by producers, producer-handlers, or importers; and
- (ii) the plan is not approved pursuant to the referendum conducted under subsection (a) of this section;

the Board shall prorate the amount of such refunds among all eligible producers, producer-handlers, or importers who demand such refund.

**(B) Right to refund**

A producer, producer-handler, or importer shall be eligible to receive a refund—

- (i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and
- (ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

**(C) Surplus funds**

Any funds not refunded under this paragraph shall be released to be used to carry out this chapter.

(Pub. L. 101-624, title XIX, §1960, Nov. 28, 1990, 104 Stat. 3879; Pub. L. 103-194, §5, Dec. 14, 1993, 107 Stat. 2295.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-194 substituted “Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 6204(d) of this title,” for “Not later than 2 years after the date on which the Secretary first issues an order under section 6203(a).”.